

**Contract Administration Unit**

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# Grieving Postal Service FECA violations

**T**he Federal Employees' Compensation Act (FECA) requires the Postal Service to forward claims for traumatic injuries (CA-1) and occupational diseases (CA-2) to the Office of Workers' Compensation Programs (OWCP) within 10 working days of receipt from an employee. The Postal Service is required to submit forms for wage-loss compensation (CA-7) to OWCP within five working days of receipt.

OWCP tracks and reports the timeliness of submission of claims from every federal agency, including the Postal Service. OWCP posts the reports on the internet quarterly.

In the last quarter of Fiscal Year 2017, the Postal Service as a whole averaged 86 percent timeliness on initial claim submissions (CA-1 and CA-2). One area reported 100 percent timely, but a number of areas were under 80 percent. Every untimely submission harms an injured worker by potentially causing delays in both wage-loss compensation and medical treatment. Delays in medical treatment can extend an injured employee's absence from work, which can result in increased costs to the Postal Service as well as to the employee.

**Article 21.4 of the National Agreement incorporates FECA and the implementing regulations of FECA into the contract.** Article 21.4 also requires the Postal Service to promulgate regulations that comply with OWCP requirements. Those postal regulations are largely found in the *Employee and Labor Relations Manual (ELM)* and the *Injury Compensation Handbook, EL-505*.

Violations of FECA regulations by the Postal Service are contractual violations. FECA regulations make no exceptions for delaying submission of claim forms by the Postal Service to OWCP.

Shop stewards can help injured workers and hold the Postal Service accountable by grieving Postal Service violations of FECA time limits.

Grievance officers need to be mindful that OWCP decisions are distinct from Postal Service actions. OWCP decisions may only be challenged through internal OWCP appeal procedures and may not be challenged through the grievance procedure.

*ELM* regulations regarding Postal Service time limits are found in Section 544.212:

The control office or control point submits to the appropriate OWCP district office within 10 working days after it is received from the employee:

- a. Completed Form CA-1 or Form CA-2.
- b. Any other information or documents that have some bearing on the claim.

Chapter 3 of the *EL-505* contains similar instructions.

In many offices, the control office is the Injury Compensation Control Office (ICCO), now referred to as the district Health Resource Management (HRM) office. Chapter 3 of the *EL-505* requires supervisors to notify the HRM office as soon as possible after an injury has been reported. Once the supervisor has completed the agency portion of the appropriate form, they must submit the form and all other documentation to HRM within 24 hours. HRM is usually the

office that logs the claim into a postal database and then submits the completed claim form to OWCP.

Postal officials should not change any information on the employee portion of claim forms. If the HRM office reviews the form and finds it incomplete, HRM must contact the employee, the employee's representative or the employee's supervisor for the missing information. To prevent delays in submission of forms to OWCP, if it is not possible to obtain written revisions from the employee of obvious or suspected errors in the Employee portion of the CA-1, such errors may be listed on the supervisor portion of the CA-1 and initialed and dated by HRM personnel (or the supervisor) identifying the errors.

**Successful grievances for untimely submission of OWCP claim forms should include an interview of the supervisor who handled the original claim form.** The Postal Service has many new supervisors who have had little or no training in OWCP rules and procedures. Lack of training may prove ignorance, but it does not allow USPS to violate the National Agreement.

Specialists in the HRM office should also be interviewed. In response to a 2016 report from the Office of Inspector General (OIG) that documented the mishandling of OWCP forms at some HRM offices, the Postal Service revised the *EL-505* and now requires HRM offices to date-stamp all claim documents upon receipt in the HRM office. Outgoing claim documents must also be date-stamped when sent to OWCP. The 2016 OIG audit report is available at [nalc.org](http://nalc.org). Navigate to "Workplace Issues" and then to "Injured on the job." A copy of this audit report should be included in any appeal to Step B of a grievance challenging USPS delay of submission to OWCP of claim forms or other documents.

OWCP claim documents are protected by Department of Labor privacy regulations. Shop stewards should obtain a privacy release from the injured worker accompanying any request for claim documents.

Remedies in OWCP grievances should attempt to fix the problem as well as make the grievant whole. In cases where the Postal Service has not complied with its obligation to timely forward claim forms to OWCP out of ignorance of the OWCP requirements, it may be appropriate to request a remedy requiring that supervisors and managers, including HRM employees, be formally trained in FECA and postal regulations. A recent arbitration decision, C-33076, issued Nov. 3, specifically identified the district HRM manager by name as not understanding what she was required to do under FECA regulations, and ordered training for supervisors and managers on OWCP requirements at both the district and station levels, under the joint auspices of the Postal Service area and NALC's national business agent. That remedy should fix the problem locally because that HRM manager will not likely want to appear before an arbitrator in the future regarding a similar violation.

**NALC branches should have zero tolerance for Postal Service violations of FECA.** Enforcing strict contract compliance for violations of injured workers' rights will benefit every letter carrier.